

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
Case No.: 9:23-cv-81150-RLR

ANDREW TATE AND TRISTAN TATE,

Plaintiffs

vs.

JANE DOE ET AL.,

Defendants.

**DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS'
MOTION TO FILE ROMANIAN INDICTMENT UNDER SEAL**

Defendants, by and through the undersigned counsel, file this Reply to Plaintiffs' Opposition to File the Romanian Indictment under Seal [DE 35].

Plaintiffs admit they are under Indictment in Romania. [DE 54 at 1]. Accordingly, Romanian authorities have provided a copy of the Indictment to Plaintiffs. Furthermore, the purpose of Defendants' motion to seal is to keep the Romanian Indictment out of the public docket, not hidden from the Plaintiffs. Defendants are happy to provide a copy of the sealed filing to Plaintiffs via email or in any manner the Court deems appropriate. Thus, filing the document under seal will not prejudice the Plaintiffs in any way. Quite the opposite. If the information is "horrifically deficient," and "able to be proven false simply by text messages," *id.*, as Plaintiffs' claim, then Plaintiffs would benefit from the sealing of such prejudicial information.

Furthermore, the Romanian Court has not made the Romanian Indictment available to the public and instead has highly prioritized its confidentiality¹. *See* Exhibit A and Declaration of Tori Hirsch. The full Romanian Indictment is over 300 pages long and the Romanian Court has only provided it to the parties to the criminal case and their counsel. *Id.* Furthermore, it includes not only the sensitive and private information regarding the sexual abuse of Jane Doe and Mary Doe, but the victim testimony of several non-parties, who are not represented here and have no way to advocate for their privacy rights in this matter. *Rosbach v. Rundle*, 128 F. Supp. 2d 1348, 1353 (S.D. Fla. 2000) (granting a motion to seal discovery materials naming non-parties because they contained private information and were of a “highly personal and inflammatory nature.”).

And finally, because the Plaintiffs have a copy of the full indictment against them (the exact document Defendants seek to file under seal), they are perfectly capable of using it to defend against detractors on social media and “defend themselves in the court of public opinion,” if they so wish. [DE 54-4]. Defendants do not need to publicly file the Plaintiffs’ charging document so they can defend themselves with it on social media, unless Plaintiffs seek the cover of the public docket in this case to circumvent the order of confidentiality in the Romanian criminal case. That Plaintiffs have not used the Romanian Indictment already in their possession to defend themselves on social media, but instead seek its unsealed filing in this case to do so, demonstrates Plaintiffs’ knowledge that the indictment is indeed confidential and not for public distribution.

¹ Although counsel for the Victim Defendants in this case were able to obtain a copy through the legal mechanisms available to the named victims in the Romanian criminal case, the Declaration of Tori Hirsch was the response counsel received when attempting to request the documents through the Romanian Court’s freedom of information process. This reflects the status of the document as confidential and unavailable to the public.

The Plaintiffs’ opposition to file the Romanian Indictment under seal to undermine it “in the court of public opinion,” rather than in the criminal court, is likely the exact reason the Romanian Criminal Court kept it confidential. *See* Exhibit A (“The following are exempted from free access . . . if their publicity is prejudicial to ensuring a fair trial or to the legitimate interest of any of the parties involved in the process.”). *See In re Sealed Search Warrant*, 622 F. Supp. 3d 1257, 1263 (S.D. Fla. 2022) (“Protecting the integrity and secrecy of an ongoing criminal investigation is a well-recognized compelling governmental interest” that can override the common law right of access); *see also In re Four Search Warrants*, 945 F. Supp. 1563, 1569 (N.D. Ga. 1996) (explaining that when the court balances competing interests when determining whether records are sought for improper purposes, it asks whether the press has already been permitted substantial access to the contents of the records).

In conclusion, out of respect for the integrity of the ongoing judicial proceedings in Romania, for the protection of the privacy interests of the Victim Defendants and the non-party victims named in the Romanian Indictment, this Court should grant Defendants’ motion to file the Romanian Indictment under seal.

Respectfully Submitted,

Date: October 1, 2023

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